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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re A.R., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

A.R.,

Defendant and Respondent.

A156756

(Contra Costa County
Super. Ct. No. J18-00620)

Appellant A.R. was charged in the Contra Costa Juvenile Court with misdemeanor battery (Pen. Code, §§ 242/243, subd. (a)) and failed to appear. The court issued a bench warrant and, on January 9, 2019, after a jurisdictional hearing, found the allegation to be true and sustained the petition. Before sustaining the petition, the court found that appellant had been adequately admonished of his rights under *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*) and waived those rights.

Appellant's court-appointed counsel has filed a brief raising no legal issues and asking this court to conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

FACTS AND PROCEEDINGS BELOW

On the morning of May 2, 2018 (all subsequent dates in this opinion are in the year 2018), Zachary M., an 11th grader in high school was parking his car off campus and noticed that appellant, who he did not know, was videotaping him with his phone.

Appellant was accompanied by two other boys he also did not know. Because the videotaping made Zachary nervous, he yelled at appellant: “You are a bitch.”

Appellant and the two other boys then approached Zachary’s car and tried to open the door on the driver’s side, which Zachary tried unsuccessfully to hold shut. After they forced the door open, appellant and one of the other boys began hitting Zachary in the face and the third boy entered the back of the car and began hitting him from behind. Zachary covered his head with his arms and did not fight back. The boys hit Zachary more than 10 times for about 30 seconds to a minute. One of the boys then snatched the key from the ignition and threw it away and all three ran from the scene. Zachary suffered a swollen eye and bloody nose.

Victor Osorio is the high school resource officer. Osorio interviewed Zachary in his office at the school shortly after the incident, observed his injuries, and saw dried blood all over his face. Apparently on the basis of a videotaped interview of Zachary, Osorio suspected that appellant was the person who initiated the assault on Zachary and interviewed him in his office.

Though he had not mentioned the subject in his initial report of the interview, Osorio testified at the jurisdictional hearing that before he made any inquiry of appellant, he advised him of his *Miranda* rights and asked him if he understood those rights, which was his “common practice.” Appellant told him that he understood his rights and waived them and agreed to speak with Osorio. After appellant admitted to Osorio that he assaulted Zachary “because [he] called him a bitch,” Osorio arrested appellant.

After appellant was taken by Osorio to the police department and booked, Osorio again advised him of his *Miranda* rights and appellant again said he understood those rights and was nevertheless willing to talk to Osorio.

In response to an August 2018 district attorney inquiry about his initial interview with appellant¹—specifically, whether he told appellant he was free to leave, who else observed the interview, and whether appellant was Mirandized and, if so, at what point in

¹ The parties referred to the district attorney’s request for a supplemental report as a “Return to Agency” or “RTA.”

the interview—Osorio prepared a supplemental report indicating that he had Mirandized appellant before the interview, although this was not in his original report. Osorio could not recall whether during his first interview with appellant he told him he was free to leave. Osorio did not recall taking notes of his conversation with appellant, and he was not wearing a body camera.

Osorio testified that his memory three months after the interview was better than his memory the day of the incident. He testified that, as stated in his supplemental report, he specifically recalled advising appellant of his *Miranda* rights prior to appellant's admission of involvement in the incident.

After the jurisdictional issue was submitted, the juvenile court observed that it found the victim "to be very, very credible" and agreed with the prosecutor that solely on the basis of Zachary's testimony it could find that allegations of the petition "true beyond a reasonable doubt."

Finding that appellant was properly admonished of his *Miranda* rights—but observing that it could find the allegation of the petition true beyond a reasonable doubt even if the admonition was inadequate and the admission appellant made to Osorio was excluded—the court determined that appellant "did commit a misdemeanor, a violation of Penal Code sections 242/243, battery, on or about May 2nd, 2018, . . . in Contra Costa County" as he "did willfully and unlawfully use force and violence upon [his victim]."

At the March 6, 2019 dispositional hearing, appellant requested a one-year probation term, asked the court to strike either the volunteer obligation or the requirement that he participate in the Thinking for Change program, and asked not to wear an ankle monitor because it would hinder his basketball-playing as a member of the high school basketball team. The juvenile court exchanged the ankle monitor condition for three weekends in juvenile hall and deleted the volunteer obligation.

The court adjudged appellant a ward of the court with no termination date, set a one-year review, placed him on probation with various terms and conditions, including restitution, and ordered him to apologize in writing to Zachary and spend three weekends in juvenile hall. A timely notice of appeal was filed on March 8, 2019.

DISCUSSION

The trial court's determinations that appellant was properly admonished and that the evidence established the allegations of the petition even without reference to his admission are both supported by substantial evidence. Appellant was at all times represented by competent counsel who vigorously protected his rights. No evidence was excluded that should have been received and no evidence was received that should have been excluded. The sentence imposed is authorized by law.

DISPOSITION

Our independent review having found no arguable legal issues that require further briefing, the judgment, including the disposition, are affirmed.

Kline, P.J.

We concur:

Richman, J.

Miller, J.

In re A.R. (A156756)